

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature Second Regular Session - 2016

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 419

BY JORDAN

AN ACT

RELATING TO TAXATION; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-120, IDAHO CODE, TO CREATE THE IDAHO TAX REVIEW COMMISSION AND TO PROVIDE FOR MEMBERS AND TERMS; AND AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-121, IDAHO CODE, TO PROVIDE THAT THE IDAHO TAX REVIEW COMMISSION SHALL REVIEW EXEMPTIONS TO THE SALES AND USE TAX, TO DEFINE A TERM AND TO PROVIDE FOR REVIEW OF VARIOUS IDAHO CODE SECTIONS PROVIDING SALES TAX EXEMPTIONS BY A CERTAIN TIME.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 1, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-120, Idaho Code, and to read as follows:

63-120. IDAHO TAX REVIEW COMMISSION -- CREATION -- MEMBERS -- TERMS. (1) There is hereby created within the department of revenue and taxation a commission to be known as the Idaho tax review commission. The Idaho tax review commission shall be composed of fifteen (15) members as follows:

(a) Two (2) members shall be appointed by the speaker of the house of representatives from the house of representatives who shall be from different political parties.

(b) Two (2) members shall be appointed by the president pro tempore of the senate from the senate who shall be from different political parties.

(c) Four (4) members shall be appointed by the governor, not more than two (2) of whom shall be from the same political party, and the other two (2) of whom shall be from other political parties which are represented in the state senate or state house of representatives.

(d) One (1) member shall be appointed by the state tax commission from the tax commission and shall be a nonvoting member.

(e) One (1) member shall be the chair of the house of representatives revenue and taxation committee.

(f) One (1) member shall be the chair of the senate local government and taxation committee.

(2) The eleven (11) members appointed pursuant to subsection (1) of this section shall select four (4) additional members with consideration to be given to representation from the major geographical areas and economic sectors of the state and equal bipartisan representation.

(3) Except for the members appointed pursuant to subsection (1) (a), (b), (e) and (f) of this section, and except as required by subsection (4) of this section, members shall be appointed to four (4) year terms.

(4) Notwithstanding the requirements of subsection (3) of this section, the governor shall, at the time of appointment or reappointment,

1 adjust the length of terms to ensure that the terms of commission members
2 are staggered so that approximately one-half (1/2) of the commission is ap-
3 pointed every two (2) years.

4 (5) Members of the commission who are not state officers or employees
5 or members of the legislature shall be compensated as provided in section
6 59-509(b), Idaho Code.

7 SECTION 2. That Chapter 1, Title 63, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 63-121, Idaho Code, and to read as follows:

10 63-121. REVIEW OF SALES TAX EXEMPTIONS. (1) Beginning with the 2017
11 legislative interim, the Idaho tax review commission, in cooperation with
12 the office of the governor and the state tax commission, shall conduct a re-
13 view of the sales and use tax exemptions as defined in subsection (4) of this
14 section.

15 (2) The Idaho tax review commission shall evaluate each of the sales and
16 use tax exemptions one (1) or more times every eight (8) years. Each year
17 the Idaho tax review commission shall select the exemptions it will evaluate
18 that year. The Idaho tax review commission's evaluation will determine the
19 fiscal impact of each sales and use tax exemption and will also evaluate the
20 exemption in accordance with such criteria as deemed appropriate along with
21 the criteria contained in the final report of the 2007 interim committee on
22 tax exemptions, which criteria are as follows:

23 (a) Equity and fairness.

24 (i) Is the benefit available to all organizations or individuals
25 in similar industries or situations?

26 (ii) Is the benefit broad (for virtually all classes of taxpayers)
27 or narrow (limited to a few)?

28 (iii) Is the product or service, or its component parts, already
29 taxed by the state or other government entity?

30 (b) Certainty.

31 (i) Are rules clear about when and how tax is paid and the amount
32 due?

33 (c) Convenience of payment.

34 (i) Is the tax payable at a time and in a manner convenient to tax-
35 payers?

36 (d) Economy in administration.

37 (i) Is the benefit easy to claim by the taxpayer?

38 (ii) Is the benefit easy to administer by the government?

39 (e) Simplicity.

40 (i) Does the benefit simplify or clarify existing tax code rather
41 than complicate it?

42 (ii) Is the benefit easily calculated and is accountability main-
43 tained with minimal recordkeeping?

44 (iii) Does the benefit bring Idaho in compliance with federal law
45 rather than create another departure?

46 (iv) Are unintended consequences unlikely (are ramifications
47 well understood)?

48 (f) Benefit objectives.

(i) How does the benefit influence the behavior of individual taxpayers or organizations?

(ii) Are the objectives of the benefit clearly stated?

(iii) To what extent does the tax benefit promote the public interest?

(iv) Does the benefit serve to attract or stimulate the state's economic condition, particularly in areas in need of growth?

(v) Is the benefit needed to compete with similar benefits in surrounding states?

(g) Transparency and visibility.

(i) Can the public easily understand the benefit and/or consequence of any tax shift?

(ii) Is the benefit better claimed as a tax break rather than through a budget appropriation?

(iii) Would a sunset, clawback or cap provision be appropriate?

(h) Appropriate government revenues.

(i) Does the tax break benefit an organization that provides goods or services that the government would otherwise provide?

(ii) Is the fiscal impact of the tax benefit reasonably determinable with existing or readily developed data?

(iii) Does the benefit have an acceptable impact on government revenues?

(3) The Idaho tax review commission shall, for each sales and use tax exemption it evaluates, make a report with recommendations to the governor, the house of representatives revenue and taxation committee and the senate local government and taxation committee.

(4) For the purposes of this section, "sales and use tax exemption" means any sale, storage, use or other consumption of tangible personal property or any sale of services not presently subject to the sales and use tax provided for by chapter 36, title 63, Idaho Code, including, but not limited to, any sales and use tax exemption expressly created in chapter 36, title 63, Idaho Code, or in any other provision of law, but such term does not include any exemption because this state is prohibited from levying such tax by virtue of the constitution of the United States.

(5) For the period until 2018, the following Idaho Code sections shall be reviewed: 63-3622B, 63-3622C, 63-3622D, 63-3622E, 63-3622F, 63-3622G, 63-3622I, 63-3622J, 63-3622K, 63-3622L, 63-3622M, 63-3622N, 63-3622O, 63-3622P, 63-3622Q, 63-3622R, 63-3622S, 63-3622T, 63-3622U, 63-3622V, 63-3622W and 63-3622X.

(6) For the period until 2019, the following Idaho Code sections shall be reviewed: 63-3622Y, 63-3622Z, 63-3622AA, 63-3622BB, 63-3622CC, 63-3622DD, 63-3622EE, 63-3622FF, 63-3622GG, 63-3622HH, 63-3622II, 63-3622JJ, 63-3622KK, 63-3622LL, 63-3622MM, 63-3622NN, 63-3622PP, 63-3622RR, 63-3622SS, 63-3622TT, 63-3622UU and 67-7439.